

SENATE BILL 1661

By Dickerson

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 17, Part 4, relative to drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(c)(1), is amended by deleting the subdivision and substituting instead the following:

(A) Cocaine or methamphetamine is a Class B felony if the amount involved is point five (0.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000);  
or

(B) Fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl, is a Class B felony if the amount involved is point one (0.1) grams or more but ten (10) grams or less of fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl and, in addition, may be fined not more than one hundred thousand dollars (\$100,000);

(C)

(1) Fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl, is a Class A felony if the amount involved is more than ten (10) grams of fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl;

(2) In addition to the possible punishment for a Class A felony, a person convicted under this subdivision (c)(1)(C) may be fined not more than five hundred thousand dollars (\$500,000) and shall be required to serve one hundred

percent (100%) of at the least the minimum sentence imposed for the violation of this subdivision (c)(1)(C);

SECTION 2. Tennessee Code Annotated, Section 39-17-417(c)(2)(A), is amended by deleting the subdivision and substituting instead the following:

(A) Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (0.5) grams or fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl, in an amount of less than point one (0.1) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); provided, that if the offense involves less than point five (0.5) grams of a controlled substance containing cocaine or methamphetamine or less than point one (0.1) grams of fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl, but the defendant carried or employed a deadly weapon as defined in § 39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.

SECTION 3. Tennessee Code Annotated, Section 39-17-417, is amended by adding the following new subsection:

( ) A violation of this section with respect to a substance that is the combination of fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl, and any other controlled substance shall be punished one (1) classification higher than provided in subsections (b)-(i).

SECTION 4. Tennessee Code Annotated, Section 39-17-417(n)(1), is amended by deleting the language "methamphetamine" and substituting instead the language "methamphetamine, fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl".

SECTION 5. Tennessee Code Annotated, Section 39-17-418(c)(2), is amended by deleting the language "methamphetamine" and substituting instead the language

"methamphetamine, fentanyl, or an equipotent amount of carfentanil, sufentanil, or the analogues of fentanyl".

SECTION 6. Tennessee Code Annotated, Section 39-17-406(b), is amended by adding the following new subdivision:

( ) Fentanyl Derivatives, unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States food and drug administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, whenever the existence of such salts is possible within any of the following specific chemical designations containing a 4-anilidopiperidine structure:

(A) With or without substitution at the carbonyl of the aniline moiety with alkyl, alkenyl, carboalkoxy, cycloalkyl, methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl, dihydrofuranyl, benzyl moiety, or rings containing heteroatoms sulfur, oxygen, or nitrogen;

(B) With or without substitution at the piperidine amino moiety with a phenethyl, benzyl, alkylaryl (including heteroaromatics), alkyltetrazolyl ring, or an alkyl or carbomethoxy group, whether or not further substituted in the ring or group;

(C) With or without substitution or addition to the piperidine ring to any extent with one or more methyl, carbomethoxy, methoxy, methoxymethyl, aryl, allyl, cyclic alkyl, or ester groups;

(D) With or without substitution of one (1) or more hydrogen atoms for halogens, or methyl, alkyl, or methoxy groups, in the aromatic ring of the anilide moiety;

(E) With or without substitution at the alpha or beta position of the piperidine ring with alkyl, hydroxyl, or methoxy groups;

(F) With or without substitution of the benzene ring of the anilide moiety for an aromatic heterocycle; and

(G) With or without substitution of the piperidine ring for a pyrrolidine ring, perhydroazepine ring, or azepine ring; excluding alfentanil, carfentanil, fentanyl, and sufentanil; including, but not limited to:

- (i) Acetylfentanyl;
- (ii) Benzodioxolefentanyl;
- (iii) Benzylfentanyl;
- (iv) Beta-hydroxythiofentanyl;
- (v) Butyrylfentanyl;
- (vi) Furanyl fentanyl;
- (vii) Lofentanil;
- (viii) Ocfentanil;
- (ix) Ohmfentanyl;
- (x) Pentanoyl fentanyl; and
- (xi) Thenylfentanyl or Thienyl fentanyl;

SECTION 7. Tennessee Code Annotated, Section 39-17-454(a)(1)(A), is amended by deleting the subdivision and substituting instead the following:

(A) Has a chemical structure that is a derivative or structural analogue of the chemical structure of a controlled substance; provided, that as used in this subdivision (a)(1), "analogue" means the structure of the tested item differs in no more than two (2) atoms and one (1) functional group from the structure of a controlled substance; or

SECTION 8. Tennessee Code Annotated, Section 39-17-454(g), is amended by deleting subdivisions (g)(1) and (g)(2), substituting instead the following, and redesignating the subsequent subdivisions accordingly:

(1) A violation of subsection (c) shall be punished in the same manner as a violation of § 39-17-417 involving the controlled substance of which the substance is an analogue as defined by subdivision (a)(1).

SECTION 9. This act shall take effect July 1, 2018, the public welfare requiring it.